

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Tyrone Noel Nunn,

Plaintiff

v.

Jame Dzurenda, et al.,

Defendants

Case No.: 2:24-cv-01794-APG-EJY

Order Dismissing and Closing Case

Plaintiff Tyrone Nunn brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at High Desert State Prison. ECF No. 1-1. On September 29, 2024, I ordered Nunn to file an amended complaint by October 31, 2024. ECF No. 3. That deadline expired and Nunn did not file an amended complaint, move for an extension, or otherwise respond.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, I must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of

1 cases on their merits; and (5) the availability of less drastic alternatives. *See In re*
2 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*,
3 833 F.2d at 130).

4 The first two factors, the public's interest in expeditiously resolving this litigation and the
5 court's interest in managing its docket, weigh in favor of dismissal of Nunn's claims. The third
6 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption
7 of injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the
8 court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The
9 fourth factor, the public policy favoring disposition of cases on their merits, is greatly
10 outweighed by the factors favoring dismissal.

11 The fifth factor requires me to consider whether less drastic alternatives can be used to
12 correct the party's failure that brought about the court's need to consider dismissal. *See Yourish*
13 *v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic
14 alternatives *before* the party has disobeyed a court order does not satisfy this factor); *accord*
15 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002). Courts "need not exhaust every
16 sanction short of dismissal before finally dismissing a case, but must explore possible and
17 meaningful alternatives." *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because
18 this action cannot realistically proceed until and unless Nunn files an amended complaint, the
19 only alternative is to enter a second order setting another deadline. But the reality of repeating
20 an ignored order is that it often only delays the inevitable and squanders the court's finite
21 resources. The circumstances here do not indicate that this case will be an exception. Nunn has
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1 filed over 80 pro se lawsuits in this district since July 2023.¹ And dozens of these lawsuits have
2 been dismissed because, like here, Nunn failed to correct fundamental defects with them despite
3 being ordered to do so. *See, e.g., Nunn v. Dep't of Corr.*, Case No. 3:24-cv-00050-ART-CLB,
4 ECF No. 4 (D. Nev. Nov. 20, 2024) (collecting cases). Setting another deadline is not a
5 meaningful alternative given these circumstances. So the fifth factor favors dismissal. Having
6 thoroughly considered these dismissal factors, I find that they weigh in favor of dismissal.

7 I THEREFORE ORDER that this action is dismissed without prejudice based on Tyrone
8 Nunn's failure to file an amended complaint in compliance with my September 29, 2024 order.
9 The Clerk of Court is directed to enter judgment accordingly and close this case. No other
10 documents may be filed in this now-closed case. If Nunn wishes to pursue his claims, he must
11 file a complaint in a new case.

12 I FURTHER ORDER that the application to proceed in forma pauperis (ECF No. 1) is
13 GRANTED. This status doesn't relieve the plaintiff of his obligation to pay the full \$350 filing
14 fee under the statute; it just means that he can do it in installments. And the full \$350 filing fee
15 remains due and owing even though this case is being dismissed.

16 I FURTHER ORDER that the Nevada Department of Corrections must pay to the Clerk
17 of the United States District Court, District of Nevada, 20% of the preceding month's deposits to
18 the account of **Tyrone Nunn, #1252474** (in months that the account exceeds \$10) until the full
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¹ I take judicial notice of the online docket records of the U.S. Courts, which may be accessed by
the public at: <https://pacer.uscourts.gov>.

1 \$350 filing fee has been paid for this action. The Clerk is directed to send a copy of this order to
2 (1) the Finance Division of the Clerk's Office and (2) the attention of **Chief of Inmate Services**
3 **for the Nevada Department of Corrections** at formapauperis@doc.nv.gov.

4 Dated: January 6, 2025



5 Andrew P. Gordon
6 Chief United States District Judge
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